THE MYSORE CO-OPERATIVE SOCIETIES ACT, 1948.

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MYSORE ACT No. LII OF 1948.

THE MYSORE CO-OPERATIVE SOCIETIES ACT, 1948.

(AS AMENDED BY ACTS LXII OF 1949 AND 8 OF 1954.)

(Received the assent of His Highness the Maharaja on the 25th day of July 1948.)

An Act to amend and consolidate the law relating to Co-operative Societies in Mysore.

WHEREAS it is expedient to amend and consolidate the law relating to Co-operative Societies in Mysore;

It is hereby enacted as follows:—

PART I—GENERAL PROVISIONS.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Co-operative Societies Act, 1948.

(2) It extends to [1][the whole of the State of Mysore.]

(3) It shall come into force on the date of the passing thereof.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "bye-laws" means the bye-laws registered or deemed to be registered under this Act and for the time being in force and includes a registered amendment of the bye-laws;

(*b*) "committee" means the governing body of a registered society to whom the management of its affairs is entrusted;

(*c*) "member" includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the bye-laws and any rule made under this Act;

(*d*) "financing bank" means a registered society, the main object of which is to lend money to other registered societies and includes a registered society which had among its objects the lending of money to registered societies;

(*e*) "officer" includes a chairman, secretary, treasurer, member of committee, or other person empowered under the

1. Substituted by Act 8 of 1954.

rules or the bye-laws to give directions in regard to the business of the society;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "registered society" means a society registered or deemed to be registered under this Act;

(*h*) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act; and

(*i*) "rules" means rules made under this Act.

OBJECTS.

Objects of Societies

3. A society shall consist of persons who have for their common object or objects some one or more of the following, namely:—

(1) the furtherance of thrift and providence among the members;

(2) the attraction of capital and the grant of credit to the members;

(3) the supply to members of raw material, seed or manure;

(4) the sale on behalf of members of agricultural produce or of manufactured goods;

(5) the manufacture of goods or growth of produce by the members co-operatively;

(6) the purchase of food-stuffs, clothing or other articles of consumption, or of animals, implements or other stock required in agriculture or industry and their retail sale to members;

(7) the purchase of machinery and its use in common by members;

(8) the building of houses or purchase of lands for members;

(9) the carrying out or development, by joint action, of an improvement whether agricultural or industrial;

(10) the insurance of the persons, families and property of the members including live-stock, co-operatively;

(11) any other object calculated to promote the economic interest of the members of a society in accordance with co-operative principles; and

(12) the facilitating of the operations of a society.

REGISTRATION.

The Registrar.

4. The Government may appoint a person to be Registrar of Co-operative Societies for the whole or any portion

of Mysore, or for any class of such societies and may appoint persons to assist such Registrar, and may by general or special order confer on any such persons all or any of the powers of a Registrar under this Act.

Liability of Members.

5. Subject to the provisions hereinafter contained, a society which has as its object some one or more of those specified in section 3 may be registered under this Act with or without limited liability :

Provided that the liability of a society of which a member is a registered society shall be limited.

Change of liability.

6. (1) Subject to the provisions of this Act and to any rules made in this behalf, a registered society may, with the previous sanction of the Registrar, change its liability from unlimited to limited :

Provided that—

(i) the society shall give notice in writing of its intention to change its liability to all its members and creditors ;

(ii) any member or creditor, shall, notwithstanding any bye-law or contract to the contrary, have the option of withdrawing his shares, deposits or loans, as the case may be, within three months of the service of such notice on him and the change shall not take effect until all such claims have been statisfied ; and

(iii) any member or creditor, who does not exercise his option within the period aforesaid, shall be deemed to have assented to the change.

(2) Notwithstanding anything contained in the provisos to sub-section (1), the change shall take effect at once if all the members and creditors assent thereto.

Restrictions on interest of member of a society with limited liability and a share capital.

7. Where the liability of the members of a society is limited by shares, no members other than a registered society shall—

(*a*) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules, or

(*b*) have or claim any interest in the shares of the society exceeding one thousand rupees without the express sanction of the Government.

Conditions of Registration.

8. (1) No society, other than a society of which a member is a registered society, shall be registered under this Act, which does not consist of at least ten persons above the age of eighteen years.

(2) The word "limited" shall be the last word in the name of every society with limited liability registered under this Act.

Application for Registration.

9. (1) For purposes of registration an application to register shall be made to the Registrar.

(2) The application shall be signed.—

(*a*) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of section 8, sub-section (1); and

(*b*) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society, and where all the members of a society are not registered societies, by ten other members or when there are less than ten other members, by all of them.

(3) The application shall be accompanied by a copy of the proposed bye-laws of the society and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration.

10. (1) If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules, and that its proposed bye-laws are not contrary to the Act or to the rules, he may, if he thinks fit, register the society and its bye-laws.

(2) If the Registrar refuses to register a society an appeal shall lie to the Government within two months from the date of the communication by the Registrar of his refusal to register the society.

Evidence of Registration.

11. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration of the society has been cancelled.

Amendment of the bye-law of registered societies.

12. (1) No amendment of the bye-laws of a registered society shall be valid until the same has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar.

(2) If the Registrar is satisfied that any amendment of the bye-laws is not contrary to this Act or to the rules, he may, if he thinks fit, register the amendment.

(3) When the Registrar registers an amendment of the bye-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

(4) When the Registrar refuses approval to the making, alteration, or of abrogation of any bye-laws, an appeal shall lie to the Government within one month from the date of the communication by the Registrar of his refusal.

Division of societies.

13. (1) Any registered society may, at a meeting of its general body specially called for the purpose of which at least fifteen clear days' notice shall be given to its members, resolve to divide itself into two or more societies. The resolution (hereinafter in this section referred to as the preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operations of, and specify the members who will constitute, each of the new societies.

(2) (i) A copy of the preliminary resolution shall be sent to all the members and creditors of the society.

(ii) Any member of the society may, notwithstanding any bye-law to the contrary, by notice given to the society within a period of three months from the date of his receipt of the preliminary resolution, intimate his intention not to become a member of any of the new societies.

(iii) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the aforesaid period intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the society, a meeting of the general body of the society, of which at least fifteen clear days' notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a majority of not less than two-thirds of the members present either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (5) and section 10, register the new societies and the bye-laws thereof. On such registration, the registration of the old society shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(4) At the meeting referred to in clause (3) provision shall be made by another resolution for—

(i) the payment of the share capital of all the members who have given notice under sub-clause (ii) of clause (2); and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (2):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (3).

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in clause (4) is not repaid or the claims of the creditors referred to in the said clause are not satisfied, the Registrar may refuse to register the new societies.

(6) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under clause (3).

Registrar's power to direct amendment of bye-laws.

14. (1) If it appears to the Registrar that an amendment of the bye-laws of a co-operative society is necessary or desirable in the interests of such society, he may,

in the manner prescribed by the rules in this behalf, call upon the society to make the amendment within such time he may specify.

(2) If the society fails to make the amendment within the time specified by the Registrar, he may, after giving the society an opportunity of being heard, register such amendment and forward to the society in the manner prescribed a copy of the amendment together with a certificate signed by him which shall be conclusive evidence that the amendment has been registered; and such amendments shall thereupon be binding on the society and its members.

(3) An appeal shall lie to the Government from any order of the Registrar passed under sub-section (2) within one month from the date of the communication by the Registrar of the registration of the amendment.

Rights and Liabilities of Members.

Exercise of rights of members.

15. No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the rules or the bye-laws.

Votes of members.

16. (1) No member of any registered society shall have more than one vote in the affairs of the society provided that in the case of an equality of votes the chairman shall have a casting vote.

(2) No vote shall be given by proxy.

(3) A registered society which has invested any part of its funds in the shares of another society, may appoint any of its members not disqualified for appointment under any rules prescribed in that behalf to vote in the affairs of such other society.

Restrictions on the transfer of share or interest.

17. (1) The transfer or charge of the share or interest of a member in the capital of a registered society, shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the Rules.

(2) A member shall not transfer any share held by him or his interest in the capital of the society or any part thereof, unless—

(*a*) he has held such share or interest for not less than one year, and

(*b*) the transfer or charge is made to the society or to a member of the society.

DUTIES OF REGISTERED SOCIETIES.

Address of Societies.

18. Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof.

Copy of Act, Rules and Bye-laws open to inspection.

19. Every registered society shall keep a copy of this Act, of the rules governing such society and of its bye-laws open to inspection free of charge at all reasonable times at the registered address of the society.

Audit.

20. (1) The Registrar shall audit or cause to be audited by some person authorised by him or by general or special order in writing in this behalf, the accounts of every registered society once at least in every year.

(2) The audit under sub-section (1) shall include—

(*a*) a verification of the cash balance and securities;
(*b*) a verification of the balances at the credit of the depositors and creditors and of the amounts due by the society's debtors or of such proportion thereof as may be fixed by the Registrar;
(*c*) an examination of overdue debts, if any;
(*d*) a valuation of the assets and liabilities of the society;
(*e*) an examination of the transactions of the society;
(*f*) an examination of the transactions with the society of the members of its Committee;
(*g*) an examination of the statement of accounts of the society to be prepared by the Committee in such form as may be prescribed;
(*h*) a certification of the profits actually realised; and
(*i*) any other matter that may be prescribed by rules.

(3) The Registrar or the person authorised by him under sub-section (1) shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(4) Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorised by him under sub-section (1) may require.

(5) The statement of accounts as audited under sub-section (2), together with the modifications, if any, made therein by the Registrar, shall be final and binding on the society.

PRIVILEGES OF REGISTERED SOCIETIES.

Societies to be bodies Corporate.

21. The registration of a society shall render it a body corporate by the name under which it is registered with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purpose of its constitution.

Certain debts due to society— a first charge.

22. (1) Subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent, any debt or outstanding demand due to a registered society by any member, past member or the estate of a deceased member shall be a first charge;

(*a*) If the debt or demand is due in respect of the supply of, or any loan to provide the means of paying for, seed, manure, labour, subsistence, irrigation facilities, fodder for cattle or any other thing incidental to the conduct of agricultural operations, upon the crops or other agricultural produce of such member or past member or belonging to the estate of such deceased member, at any time within *two years* from the date of such supply or loan;

(*b*) If the debt or demand is due in respect of the supply of, or any loan for the purchase of cattle, agricultural implements or warehouses for the storage of agricultural produce in the manner and to the extent aforesaid upon the crops or agricultural produce of such member, or past member or belonging to the estate of such deceased member and also upon the cattle, agricultural implements or warehouses thus supplied or purchased in whole or in part from any such loan;

(*c*) If the debt or demand is due in respect of the supply of, or any loan for the purchase of raw materials, industrial implements, machinery, workshops, warehouses or business premises—upon the raw materials or other things supplied or purchased by such member, past member or deceased member in whole or in part from any such loan and also upon any articles manufactured from raw materials or with implements or machinery so supplied or purchased in whole or in part from any such loan ; and

(*d*) If the debt or demand is due in respect of any loan for the purchase or redemption of land—upon the land purchased or redeemed by such member, past member or deceased member in whole or in part from any such loan;

(*e*) If such debt or demand is due in respect of any loan for the purchase or construction of any house or building or any portion thereof or in respect of the supply of materials for such construction, upon the house or building so purchased or constructed by such member, past member or deceased member from any such loan or material ;

(2) Nothing in clauses (*a*), (*b*), (*c*), (*d*) or (*e*) of sub-section (1) shall affect the claims of any *bona fide* purchaser or transferee for value without notice of any such crops or other agricultural produce, fodder, cattle, agricultural produce or industrial implements, machinery, raw materials, workshops, warehouses, premises, manufactured articles, houses, buildings or land.

Charge and set-off in respect of shares or interest of member.

23. A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member, deceased member, or past member and upon any dividend, bonus or profits payable to a member, deceased member or past member in respect of any debt due from such member, deceased member or past member to the society, and may set-off any sum credited or payable to a member, deceased member or past member in or towards payment of any such debt.

Agreements with employee for deductions to be paid to society permitted.

24. (1) A member of a society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be

specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such agreement the employer shall, if so required by the society by a requisition in writing and so long as such a demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amount so deducted to the society.

Shares or interest not liable to attachment.

25. Subject to the provisions of section 23, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and a Receiver appointed under the Mysore Insolvency Act, 1911, shall not be entitled to or have any claims on such share or interest.

Transfer of interest on death of member.

26. (1) On the death of a member, a registered society may transfer the share or interest of the deceased member to the person nominated in accrodance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or bye-laws.

(2) A registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of past member.

27. The liability of a past member for the debt of a registered society as they existed at the time when he ceased to be a member shall continue for a period of two years from the date of his ceasing to be a member.

Liability of the estate of deceased member.

28. The estate of a deceased member shall be liable for a period of two years from the time of his decease for the debts of a registered society as they existed at the time of his decease.

Register of members.

29. Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of the following particulars entered therein :—

(*a*) the date at which the name of any person was entered in such register or list as a member;

(*b*) the date at which any such person ceased to be a member.

Mode of proof of entries in societies' books.

30. A copy of any entry in a book of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by the rules, be received in any suit, or legal proceeding as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Exemption from compulsory registration of instruments relating to shares and debentures of registered society.

31. Nothing in section 17, clauses (*b*) and (*c*) of the Mysore Registration Act, I of 1903, shall apply to—

(1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property; or

(2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(3) any endorsement upon or transfer of any debenture issued by any such society.

Power to exempt from stamp-duty and registration fees.

32. (1) The Government, by notification in the official Gazette, may, in the case of any registered society or class of registered societies, remit—

(*a*) any tax payable to Government or to a local authority in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits;

(*b*) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or

member and relating to the business of such society or any class of such instruments, are respectively chargeable;

(*c*) any fee payable under the law of registration for the time being in force.

PROPERTY AND FUNDS OF REGISTERED SOCIETIES.

Restriction of loans.

33. (1) A registered society shall not make loan to any person other than a member provided that, with the consent of the Registrar, a registered society may make loans to another registered society.

(2) The Government may, by general or special order, prohibit or restrict the lending of money on the security of movable or immovable property or any kind thereof by any registered society or class of registered societies.

Restrictions on borrowing.

34. A registered society may receive deposits and loans from members without restriction, but it shall not receive deposits and loans from persons, who are not members except to such extent and under such conditions as may be provided by the rules or bye-laws.

Restrictions on other transactions with non-members.

35. Save as provided in sections 33 and 34, the transactions of a registered society with persons other than members shall be subject to such prohibitions, and restrictions, if any, as the Government may, by rules prescribe.

Deposit of society's funds.

36. A registered society may invest or deposit its funds—

(*a*) in the Government Savings Bank, or

(*b*) in the Post Office Savings Bank, or

(*c*) in the shares or on the security of any other society, provided that no such investment shall be made in the shares of any society with unlimited liability, or

(*d*) with any Bank or person carrying on the business of banking approved for this purpose by the Registrar, or

(*e*) in any other mode permitted by the rules.

Funds not to be divided by way of profits.

37. No part of the funds of registered society shall be divided by way of bonus or dividend or otherwise among its members:

Provided that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from the remainder of such profits and from any profits of past years available for distribution may be made among

the members to such extent and under such conditions as may be prescribed by the rules or bye-laws.

Contribution to charitable purposes.

38. Any registered society may, with the sanction of the Registrar, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding fifteen per cent of the remaining net profits to any charitable purpose.

Explanation.—Charitable purpose in this section includes the relief of the poor, education, medical relief and the advancement of any other object of public utility but does not include a purpose which relates exclusively to religious teaching or worship.

INQUIRY AND INSPECTION.

Inquiry by the Registrar.

39. (1) The Registrar may, of his own motion and shall on the application of the majority of the committee or of not less than one-third of the members, hold an inquiry or direct some person authorised by him by order in writing in accordance with the rules made in this behalf to hold an enquiry into the constitution, working and financial condition of a registered society.

(2) The Registrar or the person authorised by him under sub-section (1) shall have the following powers, namely:—

(*a*) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof;

(*b*) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath;

(*c*) (i) he may, notwithstanding any rule or bye-law prescribing the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters

as may be directed by him. If the officers of the society refuse or fail to call a meeting, he shall have power to call it himself;

(ii) any meeting called under clause (i) shall have all the powers of a general meeting called under the bye-laws of the society and its proceedings shall be regulated by such bye-laws;

(iii) when an enquiry is made under this section, the Registrar shall communicate the result of the enquiry to the society concerned and to the financing bank, if any, to which the society is indebted.

Inspection of books of indebted society.

40. (1) The Registrar may, of his own motion or on the application of a creditor of a registered society, inspect or direct some person authorised by him in this behalf by a general or special order in writing to inspect the books of the society and the Registrar or the person so authorised shall have all the powers conferred by sub-clauses (*a*) and (*b*) of sub-section (2) of section 39, except the power to examine on oath.

(2) No inspection on the application of a creditor shall be made or directed under sub-section (1) unless such creditor—

(*a*) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(*b*) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) When an inspection is made under sub-section (1), the Registrar shall communicate the results of such inspection to the creditor and to the financing bank if any, to which the society is indebted.

Inspection of books by Deputy Commissioner.

(4) The Deputy Commissioner of the District in which the society is situated may, at any time, inspect the books, accounts, papers, cash and securities of the society and every officer and member of the society shall furnish such information in regard to the transaction and working of the society as the Deputy Commissioner may require and the result of such inspection should be communicated to the Registrar.

Inspection of books by financing bank.

41. A financing bank shall have the right to inspect the books of any registered society which is indebted to it. The inspection may be made either by an officer of the financing bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for information, statements, and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

Costs of inquiry and inspection.

42. Where an enquiry is held under section 39 or an inspection is made under section 40, the Registrar may, after giving the parties an opportunity to be heard, apportion the costs or such part of the costs as he may think right between the society, the member or creditor demanding an enquiry or inspection and the officers or former officers of the society.

Recovery of costs.

43. Any sum awarded by way of cost under section 42 may be recovered on application to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides or carries on business by the distress and sale of any movable property within the limits of jurisdiction of such Magistrate belonging to such person.

SUPERSESSION OF COMMITTEE OF SOCIETY.

Supersession of Committee.

44. (1) If, in the opinion of the Registrar, the committee of any registered society is not functioning properly, he may after giving an opportunity to the committee to state its objections, if any, and after considering the objections raised, call upon the members of the society to appoint another committee in such time as may be fixed by him. If the members fail to appoint a committee which, in the opinion of the Registrar, is likely to function satisfactorily and the Registrar is of opinion that, in the circumstances of the case, it is undesirable to order the cancellation of the registration of the society, he may, by order in writing, dissolve the committee and appoint a suitable person or persons to manage the affairs of the society for a specified period not exceeding one year. The period specified in such order may, at the discretion

of the Registrar, be extended from time to time, provided that such order shall not remain in force for more than two years in the aggregate.

(2) The person or persons so appointed shall have power, subject to the control of the Registrar, to recover the assets and discharge the liabilities of the society and take such action as may be required in its interests.

(3) The Registrar may fix the remuneration payable to the person or persons so appointed. The amount of such remuneration and other costs, if any, incurred in the management of the society shall be payable from its funds.

(4) The person or persons so appointed shall, at the expiry of the period of his or their appointment, arrange for the constitution of a new committee in accordance with the bye-laws of the society.

(5) Before taking action under sub-section (1) in respect of any society, the Registrar shall, if the society is indebted to a financing bank, consult such bank regarding such action and the provision to be made for the management of the affairs of the society.

(6) Any member of the society may, within one month from the date of an order passed by the Registrar under sub-section (1), appeal from such order to the Government.

(7) Nothing in this section shall be deemed to affect the powers of the Registrar to wind up the society under section 45.

Winding up and Dissolution of Society.

Order for winding up.

45. (1) If the Registrar, after an enquiry has been held under section 39 or after an inspection has been made under section 40 or section 41 or on reciept of an application made by three-fourths of the members of a registered society or of his own motion in the case of a society which has not commenced working, or has ceased working, or has share capital or members' deposits not exceeding five hundred rupees, or has ceased to comply with any condition as to registration in this Act or in the rules or bye-laws, is of opinion that the society ought to be dissolved, he may issue a notice to the society intimating the society of his intention to order that the society be wound up and specifying the grounds for the proposed order,

(2) After the expiry of two months from the date of notice mentioned in sub-section (1) above, and on a consideration of the objections, if any, to the proposed order, received from the members of the society, the Registrar may by an order in writing direct that the society be wound up.

(3) A copy of such order shall be communicated to the society and to the financing bank, if any, of which the society is a member.

(4) Any member of the society may within two months from the date of any order made under sub-section (2) appeal from such order to Government.

(5) Where no appeal is presented within two months from the date of making the order under sub-section (2) above, the order shall take effect on the expiry of that period.

(6) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the Government.

Cancellation of registration of society.

46. Where it is a condition of the registration of a society that it should consist of at least ten members, the Registrar may, if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten, by order in writing, direct that the society shall be wound up.

Cancellation of the winding up order.

47. (1) Where the Registrar has passed an order for the winding up of a society either under section 45 or section 46, he may cancel the same, in any case where, in his opinion, the society should continue to exist.

Cancellation of registration of society and effect of cancellation.

(2) In any other case, the Registrar, shall, after considering the report of the Liquidator, if any, cancel the registration of the society and the society shall then cease to exist as a corporate body.

Appointment of a Liquidator.

48. (1) Where the Registrar has passed an order under section 45 or section 46 for the winding up of a co-operative society, he may forthwith appoint a competent person to be liquidator and fix his remuneration and such person, notwithstanding anything in section 45 relating to the time when the order for winding up shall take effect, shall have power to take immediate possession of all assets belonging to the society and of all books, records and other documents pertaining to the business thereof and to carry

on the business of the society so far as may be necessary for the beneficial winding up of the same.

Powers of a Liquidator.

(2) A liquidator appointed under sub-section (1) shall, subject to the Rules and under the general direction and control of the Registrar, as soon as the order of winding up takes effect, have power—

(*a*) to institute and defend suits and other legal proceedings on behalf of the society by his name of office;

(*b*) to determine from time to time the contributions to be made by the members or past members, the estates or nominees, heirs or legal representatives of deceased members or by any officer or past officer of the society, respectively, to the assets of the society, such contributions including debts due from such members or persons; to revise any order of contributions until the winding up is completed and to realise such contributions:

Provided that the liquidator shall not determine the contribution, debt or assets to be recovered from any person unless an opportunity of being heard has been given to such person;

(*c*) to refer disputes to the Registrar under section 52 of the Act;

(*d*) to investigate all claims against the society and subject to the provisions of this Act, to decide questions of priority arising between claimants;

(*e*) to determine by what persons and in what proportions the costs of the liquidation are to be borne; and;

(*f*) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society.

(3) Any person aggrieved by an order of the liquidator may appeal to the Court of the District Judge having jurisdiction over the area in which the headquarters of the society are situated by application made by him within two months from the date of the receipt of the order by him.

(4) Orders made under this section shall on application be enforced as follows:—

(*a*) When made by a liquidator by any Civil Court having local jurisdiction in the same manner as

the decree of such Court, or by the Deputy Commissioner of the District according to the law and under the rules for the time being in force for the recovery of arrears of land revenue;

(*b*) When made by the Court of the District Judge in the matter of any such appeal aforesaid, in the same manner as a decree of such Court made in any suit pending therein.

(5) Save in so far as is hereinbefore expressly provided, no Civil Court shall have any jurisdiction in respect of any matter connected with the dissolution of a society under this Act.

SURCHARGE AND ATTACHMENT.

Surcharge.

49. (1) Where in the course of an audit under section 20 or an enquiry under section 39 or an inspection under section 40 or the winding up of a society, it appears that any person who has taken part in the organisation or management of the society or any past or present officer of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society, the Registrar may, of his motion or on the application of the committee or liquidator or of any creditor or contributory, examine into the conduct of such person or officer and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society or by way of compensation in respect of the misappropriation, fraudulent retainer or breach of trust as the Registrar thinks just.

(2) The order of the Registrar under sub-section (1) shall be final unless it is set aside by the District Court having jurisdiction over the area in which the headquarters of the society are situated on application made by the party aggrieved within three months of the date of receipt of the order by him.

(3) Any sum ordered under this section to be repaid to a society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf to the Deputy Commissioner by the Registrar in the same manner as arrears of land revenue.

(4) This section shall apply notwithstanding such person or officer may have incurred criminal liability by his act.

50. Where the Registrar is satisfied on the affidavit of the liquidator or otherwise that any person with intent to defeat or delay the execution of any order that may be passed against him under clause (*b*) of sub-section (2) of section 48 or under section 49— Attachment of property.

(*a*) is about to dispose of the whole or any part of his property, or

(*b*) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as if it had been made by a competent civil court:

Provided, however, that if during the continuance of conditional attachment the party furnishes adequate security, the attachment so placed shall be withdrawn.

AMALGAMATION.

51. (1) Any two or more registered societies may by resolutions of both or all such societies passed and registered in accordance with rules made by Government in this behalf become amalgamated together as one registered society with or without any dissolution or division of the funds of such societies or either of them and the properties of such societies shall become vested in the amalgamated society without the necessity of any form of conveyance other than that contained in the resolution amalgamating the societies. Amalgamation.

(2) Any registered society may, by a resolution passed and registered in like manner, transfer its engagements to any other registered society which may undertake to fulfil the engagements of such society.

(3) An amalgamation or transfer of engagements in pursuance of this section shall not prejudice any right of a creditor of any registered society which is a party thereto.

DECISION OF DISPUTES.

52. (1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary Disputes.

action taken by the society or its committee against a paid servant of the society) arises—

(*a*) among members, past members and persons claiming through members, past members and deceased members, or

(*b*) between a member, past member or persons claiming through a member, past member, or deceased member, and the society, its committee or any officer, agent or servant of the society, or

(*c*) between the society or its committee and any past committee, any officer or past officer, any agent or past agent, any servant or past servant of the society or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased servant of the society, or

(*d*) between the society and any other registered society,

such dispute shall be referred to the Registrar for decision.

Explanation.—A claim by a registered society for any debt or demand due to it from a member, past member or the nominee, heirs or legal representative of a deceased member or any past committee, any officer or past officer, any agent or past agent, any servant or past servant of the society or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased servant of the society whether such demand be admitted or not, is a dispute touching the business of the society within the meaning of this sub-section.

(2) Subject to such rules as may be prescribed, the Registrar may on receipt of such reference—

(*a*) decide the dispute himself, or transfer it for disposal to any person who has been invested by the Government with powers in this behalf, or

(*b*) refer it for disposal to an arbitrator or arbitrators, or

(*c*) in the first instance or at any time before the dispute is finally disposed of under clause (*a*) or (*b*) of this sub-section refer the dispute to or direct or permit the party or parties, as the case may be, to institute a regular suit in the civil court having jurisdiction.

(3) Subject to such rules as may be prescribed, the Registrar may withdraw any reference referred under clause (*b*) of sub-section (2) and deal with it in the manner provided in the said sub-section.

(4) Where the Registrar is satisfied by affidavit or otherwise that a party to any reference made to him under sub-section (1) with intent to defeat or delay the execution of any decision that may be or has been passed thereon—

(*a*) is about to dispose of the whole or any part of his property, or

(*b*) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

the Registrar may unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary, and such attachment shall have the same effect as if it had been made by a competent civil court, provided, however, that if during the continuance of the conditional attachment, the party furnishes adequate security, the attachment so placed shall be withdrawn.

(5) Subject to such rules as may be prescribed —

(*a*) any party aggrieved by the award of an arbitrator or arbitrators or by an order of the person referred to in sub-section (2) (*a*), may appeal to the Registrar within one month from the date of such award or order; and

(*b*) any party aggrieved by an order of the Registrar deciding the dispute himself under sub-section (2) (*a*), may appeal to the Government within one month from the date of such order.

(6) (*a*) Any decision passed by the Registrar or the Government under sub-section (5) shall be final and shall not be called in question in any civil or revenue court.

(*b*) Any decision passed under sub-section (2) by the Registrar or by the person to whom a dispute is transferred or by the arbitrator or arbitrators to whom a dispute is referred shall, save as otherwise provided in sub-section (5), be final and shall not be called in question in any civil or revenue court.

(7) The Registrar, in the case of disputes under this section, shall have the power of review, vested in a Civil

Court under section 114 and under order XLVII, rule 1 of the Code of Civil Procedure, 1911.

Summoning of witnesses.

53. Subject to such rules as may be prescribed, the Registrar or any person authorised to hold an enquiry under section 39 or an inspection under section 40, or any person or arbitrator or arbitrators to whom a dispute is referred or transferred for disposal under section 52, or a liquidator appointed under section 48, shall, in so far as such powers are necessary for carrying out the purposes of the said sections, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and so far as may be, in the same manner as is provided in the case of a civil court under the Code of Civil Procedure, 1911.

Money how recovered.

54. (1) Every order passed by the Registrar or his nominee or arbitrator or arbitrators on disputes referred to him or them under section 52 may, if not carried out, be executed—

(*a*) on a certificate signed by the Registrar, by any Civil Court in the same manner as a decree of such court, or

(*b*) according to the law and under the rules for the time being in force for the recovery of arrears of land revenue, provided that any application for the recovery in such manner of any such sum shall be made to the Deputy Commissioner and shall be accompanied by a certificate signed by the Registrar.

(2) When the property attached in execution of an order referred to in sub-section (1) cannot be sold for want of buyers, the same may be handed over to a registered society with the previous consent of the Registrar on such terms and conditions as may be agreed upon between the Deputy Commissioner and the said society.

Offences and Penalties.

Offences.

55. It shall be an offence under the Act if—

(*a*) a registered society or an officer or member thereof wilfully makes a false return, furnishes false information; or

(*b*) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawfully written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorised in this behalf under the provisions of this Act.

Punishment for disposing of property in contravention of section 22.

56. Any member or past member or the nominee, heir or legal representative of a deceased member removing or otherwise disposing of or suffering to be removed or otherwise disposed of, any property on which a registered society has a first charge under section 22 with intent to defraud the society or with such intent doing any other act to the prejudice of the society's first charge shall be punishable with fine not exceeding two hundred rupees.

Punishment for offence not otherwise provided for.

57. Any registered society or any officer or member thereof or any other person guilty of an offence under this Act for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees.

Cognizance of offence.

58. (1) No court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

(2) Every offence under this Act shall, for the purposes of the Code of Criminal Procedure, 1904, be deemed to be non-cognizable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar. Such sanction shall not be given without giving the party concerned an opportunity to be heard.

Powers of Revision.

Power of Government and Registrar to call for proceedings and to pass orders thereon.

59. (1) The Government may, of its own motion or on the application of any person, call for and examine the record of any enquiry, or the proceedings of the Registrar or any officer subordinate to him or any person acting on his authority, for the purpose of satisfying itself as to the legality, or propriety of any decision or order passed and as to the regularity of the proceedings of such officer or person. If in any case it shall appear to the Government that any decision or order or proceedings so called for should be modified, annulled or

reversed, the Government may pass such order thereon as to it may seem fit.

(2) The Registrar may, of his own motion or on the application of any person, call for and examine the record of any enquiry or the proceedings of any officer subordinate to him or any person acting on his authority or of a liquidator under section 48 if no appeal has been preferred under sub-section (3) of section 48, and if it appears to him that any decision, or order or proceedings should for any reason be modified, annulled or reversed, he may pass such orders thereon as to him may seem fit.

LIMITATION.

Limitation

60. (1) Subject to the provisions of the next succeeding sub-sections of this section, the provisions of the Mysore Limitation Act, 1911, so far as they relate to suits, appeals and applications, shall, so far as may be, apply to disputes, suits, appeals, or applications instituted, preferred or made under this Act.

(2) In any dispute or suit of the description mentioned in sub-section (1) of section 52, the periods of limitation shall be double those prescribed in the second column of the First Schedule annexed to the Mysore Limitation Act, 1911:

Provided that nothing in this sub-section shall apply to a dispute or suit founded on a written instrument of mortgage or hypothecation of immovable property registered under any law in force at the date of execution of such instrument.

(3) In computing the period of limitation for execution by a Civil Court of an order passed under section 52, the time during which proceedings in execution were taken before a Deputy Commissioner on an application made under clause (*b*) of sub-section (1) of section 5 shall be excluded.

(4 In computing the period of limitation, for an application to the Civil Court under section 187 (A) of the Mysore Land Revenue Code, 1888, for possession of property sold in execution of an order passed under section 52 of this Act, the period of limitation shall be computed from the date of issue of a sale certificate by the Deputy Commissioner.

(5) Notwithstanding anything contained in this section or in the Mysore Limitation Act, 1911, any dispute or suit for which the period of limitation prescribed by this

section has expired prior to the date of commencement of this Act or expires within six months next after that date, may be instituted within a period of six months next after the passing of this Act.

Explanation.—For the purposes of this section a dispute shall be deemed to be a suit.

Power of the Registrar to direct the taking of action for recovery.

61. (1) The Registrar or the Committee of Management of a financing bank in the case of societies indebted to it, may direct the committee of a society to take action under section 52 against a member of such society or a past member or a person claiming through a member for the recovery of the moneys due by such member to the society within such time as he or it may specify and if the committee of the society fails to do so within the time specified, any person authorised by the Registrar in this behalf or the financing bank may take such action.

(2) Where such action is taken by the person authorised as above or by the financing bank, the provisions of this Act and of any rules made thereunder or the bye-laws of such society, shall apply in respect thereto as if all references to the society and to its committee in the said provisions were references to the person authorised or the financing bank and its committee of management, respectively.

Delegation of the power of hearing appeal to the Registra

62. (1) From every decision or order passed by a person appointed to assist the Registrar under section 4 or under section 52 of this Act, an appeal shall lie to the Registrar, provided that such appeal is preferred within one month from the date of such decision or order exclusive of the time required for obtaining a copy of the decision or order.

(2) From every decision or order passed on appeal by the Registrar a second appeal on a point of law only shall lie to the Government, provided that such appeal is preferred within one month from the date of such decision or order exclusive of the time required for obtaining a copy of the decision or order.

Certain officers to be deemed public servants

63. The Registrar, a person exercising the powers of the Registrar, a person authorised to hold an enquiry under section 39 or conduct an inspection under section 40, a liquidator, a person who has been invested by the Government with the power of hearing disputes under section

52 (2) (*a*), and an arbitrator or arbitrators to whom any dispute is referred under section 52 (2) (*b*) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, as in force in Mysore.

POWER OF REGISTRAR TO RECOVER CERTAIN SUMS BY ATTACHMENT AND SALE OF PROPERTY.

64. The Registrar or any person subordinate to him empowered by him in this behalf may, subject to such rules as may be prescribed and without prejudice to any other mode of recovery provided by or under this Act, recover—

(*a*) any amount due under a decree or order of civil court, a decision of the Registrar or person invested by Government to decide disputes, or an award of the arbitrator or an order of the Registrar, obtained by a registered society or liquidator; or

(*b*) any sum awarded by way of costs under section 42 to a registered society, including a financing bank or to the Government; or

(*c*) any sum ordered under section 48 to be recovered as a contribution to the assets of a society or as costs of liquidation; or

(*d*) any sum ordered under section 52 to be repaid to a society or to be recovered as a contribution to its assets, together with the interest, if any, due on such amount or sum and the cost of process;

by the attachment and sale or by the sale without attachment of property (excepting standing crops) of the persons against whom such decree, decision, award or order has been obtained or passed.

The Registrar to be deemed a Civil Court for certain purposes of the Limitation Act.

65. The Registrar or any person empowered by him in this behalf, shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment or by the sale of any property, or when passing any orders on any application made to him for such recovery or to take some step-in-aid of such recovery, to be a Civil Court for the purposes of Article 182 of the first schedule to the Mysore Limitation Act, 1911.

RULES.

Rules.

66. (1) The Government may, for the whole or any part of Mysore and for any registered society or class of

registered societies, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) subject to the provisions of section 7 prescribe the maximum number of shares of portion of the capital of a society which may be held by a member;

(*b*) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

(*c*) prescribe the matters in respect of which a society may or shall make bye-laws and for the procedure to be followed in making, altering, and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(*d*) prescribe the condition to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership;

(*e*) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;

(*f*) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(*g*) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers;

(*h*) prescribe qualifications for the employees of a registered society and the conditions of service subject to which persons may be employed by it;

(*i*) prescribe the accounts and books to be kept by a society and provide for the audit of such account, and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society;

(*j*) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted;

(*k*) provide for the persons by whom and the form in which copies of entries in books of societies may be certified;

(*l*) provide for the formation and maintenance of a register of members, and, where the liability of the members is limited by shares, of a register of shares;

(*m*) specify the class of persons to whom the power under section 39 may be delegated;

(*n*) provide for—

(i) the appointment of an arbitrator or arbitrators to decide disputes;

(ii) the procedure to be followed in proceedings before the Registrar, arbitrator, or arbitrators, including the appointment of a guardian for a party to the dispute who is a minor, or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests;

(iii) the levy of the expenses incidental to such proceedings; and

(iv) the enforcement of the decision or awards in such proceedings;

(*o*) provide for the withdrawal and expulsion of members and for the payment, if any, to be made to members who withdraw or are expelled and for the liabilities of past members;

(*p*) provide for the mode in which the value of a deceased member's interest shall be ascertained and for the nomination of a person to whom such interest may be paid or transferred;

(*q*) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member;

(*r*) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society;

(*s*) prescribe the extent to which a society may limit the number of its members;

(*t*) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability, and the maximum rate of dividend which may be paid by a society;

(*u*) prescribe the procedure to be followed in presenting and disposing of appeals under this Act;

(*v*) prescribe the procedure to be followed by a liquidator appointed under section 48 and the cases in which an appeal shall lie from the order of such liquidator;

(*w*) prescribe the procedure to be observed and conditions to be fulfilled when societies change their form of liability under section 6 of this Act;

(*x*) prescribe the procedure to be observed and conditions to be fulfilled in passing and registering a resolution for amalgamation or transfer of engagements under section 51;

(*y*) prescribe the value of court fee stamps to be affixed to petitions or memorandum of appeals filed or preferred under section 52, the conditions subject to which and the circumstances under which, refund thereof may be ordered and the authority who may do so;

(*z*) provide for the custody of property attached under this Act;

(*aa*) provide for the issue and service of processes and for proof of the service thereof;

(*bb*) provide for the inspection of documents in the Registrar's office and the levy of fees for granting certified copies of the same;

(*cc*) provide for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar or an officer empowered by him and for the postponement of sale pending such investigation;

(*dd*) prescribe the procedure for the attachment and sale of property under section 64; and

(*ee*) provide for matters all expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the official Gazette, and on such publication have effect as if enacted in this Act.

MISCELLANEOUS.

Recovery of sums due to Government.

67. (1) All sums due from a registered society or from an officer or member or past member of a registered society as such to the Government including any cost awarded to the Government under section 42 may be recovered in the same manner as arrears of land revenue.

(2) Sums due from a registered society to Government and recoverable under sub-section (1) may be recovered firstly; from the property of the society; secondly, in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability; and thirdly, in the case of other societies, from the members.

Application of sections 64 and 65 and certain rules to societies in Provinces and States in India.

[1][**67-A.** The provisions of sections 64 and 65 and all rules made under this Act relating to, or in any manner connected with, the recovery of the sums specified in section 64 shall apply with such modifications, if any, as may be directed by the Government, in regard to the recovery of like sums due to co-operative societies registered or deemed to be registered under any law for the time being in force in any Province or State in India, notified in this behalf by the Government in the official Gazette, as if such societies had been registered in Mysore under this Act.]

Power to exempt societies from conditions as to registration.

68. Notwithstanding anything contained in this Act, the Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

Power to exempt registered societies from provisions of the Act.

69. The Government may, by general or special order, exempt any society from any of the provisions of this Act or may direct that such provisions shall apply to the society with such modifications as may be specified in the order.

Prohibition of the use of the word "Co-operative."

70. (1) No person other than a registered society shall trade or carry on business under any name or title

1. Inserted by Act LXII of 1949.

of which the word "co-operative" is part, without the sanction of the Government:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

Mysore Companies Act not to apply.

71. The provisions of the Mysore Companies Act, 1938, shall not apply to societies registered under this Act.

Saving of existing societies.

72. (1) Every society now existing which has been registered under the Mysore Co-operative Societies Act, 1905 or the Mysore Co-operative Societies Act, 1918, shall be deemed to be registered under this Act and their bye-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

(2) All appointments made, rules and orders made, notifications and notices issued and suits and proceedings instituted under the said Acts shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

Repeal of Act VII of 1918.

73. The Mysore Co-operative Societies Act, 1918 (VII of 1918), is hereby repealed.

PART II—SPECIAL PROVISIONS RELATING TO CO-OPERATIVE LAND MORTGAGE BANKS

Definitions.

74. In this part of this Act, unless there is anything repugnant in the subject or context,—

(1) "Co-operative Land Mortgage Bank" or "Bank" means a registered society formed for granting loans on the mortgage of agricultural land, for the liquidation of prior debts of agriculturists, or for the improvement or better cultivation of agricultural land, or formed primarily for the purpose of financing such society.

(2) "Central Co-operative Land Mortgage Bank" or "Central Bank" means a bank which has for its primary object the financing of Co-operative Land Mortgage Banks.

(3) "Primary Land Mortgage Bank" or "Primary Bank" means a bank affiliated to a Central Bank.

(4) "Board" means in relation to a Primary Bank, the Committee of the Central Bank which has financed such Primary Banks.

(5) "Trustee" means the person appointed by the Government to secure the fulfilment of the obligations of a bank to the holders of debentures issued by such bank.

Bye-laws subj ct to previous approval of Government.

75. The first bye-laws of a Co-operative Land Mortgage Bank as well as every alteration thereof shall be subject to the previous approval of the Government, and shall make provision, among other matters, for—

Content of bye-laws.

(*a*) constituting a reserve fund and carrying to it a sum not less than ten per cent of the net profits of every year;

(*b*) fixing the minimum and maximum amount of loans that may be granted;

(*c*) fixing the maximum rates of interest of loans;

(*d*) fixing the maximum duration of loans;

(*e*) earmarking the capital raised by debentures for the grant of loans on the mortgage of agricultural land;

(*f*) the valuation of the property offered as security for loans;

(*g*) fixing the proportion which the amount of loan should bear to the value of the property offered as security for the loan;

(*h*) fixing the maximum rate of interest on debentures and the maximum and minimum periods for the redemption thereof;

(*i*) the manner and conditions of redemption and repurchase of debenture bonds;

(*j*) the reduction of the rate of interest payable on any series of debenture bonds at any time after the expiry of the minimum period of redemption thereof and after giving the holders the option to accept payment in cash at par;

(*k*) transferring to the trustee, if so required by him, the Bank's rights in the mortgages on the security of which debentures are issued and crediting to an account opened in his name in such other Bank as may be

approved by the Government all recoveries made from the members of the Bank under the terms of their mortgage deeds;

(*l*) getting the accounts of the Bank audited at least once a year by duly certified auditor or by an officer deputed by the Government; and

(*m*) regulating other matters concerning the organization and working of the Bank, the remuneration, if any, which the members of the committee and the local agents and auditors are to receive:

Provided that the Government may delegate to the Registrar, the power of approval mentioned in this section in the case of any Bank or class of Banks.

Power of Government to nominate two members to committee.

76. When the interest on any loan raised by the Bank is guaranteed by the Government or when contribution of any kind is made by the Government to the capital or working expenses of the Bank, the Government shall have the power to nominate two members to the committee whether such nominees are members of the Bank or not.

Appointment of representatives of debenture holders to committee.

77. When any part of the capital of the Bank consists of loans raised by debentures issued by the Bank, not less than two members of the committee shall be representatives of the holders of such debentures, whether they are members of the Bank or not, and they shall be selected in the manner prescribed by the Government.

Issue of debentures.

78. Debenture bonds may be issued by a Co-operative Land Mortgage Bank only with the previous sanction of the Government and they shall be in such form and contain such covenants and provisions as the Bank, with the previous sanction of the Government, may prescribe.

Debentures to be negotiable instruments and securities for investing trust funds.

79. Debenture bonds issued in conformity with section 78—

(*a*) shall be deemed to be negotiable instruments to which the provisions of the Mysore Negotiable Instruments Act, 1917, apply; and

(*b*) shall be included amongst the securities in which a trustee may invest trust funds under any law for the time being in force in Mysore.

Purposes for which loans may be granted.

80. (1) A Co-operative Land Mortgage Bank may grant loans only for the following purposes, namely:—

(*a*) for the redemption of subsisting mortgages on agricultural land,

(*b*) for the liquidation of other prior debts of agriculturists,

(*c*) for the improvement or the better cultivation of agricultural land, and

(*d*) for current agricultural operations.

(2) A loan may be granted only on the mortgage of agricultural land which is situate in Mysore and is free from all encumbrances other than those, if any, to be redeemed. Such mortgage shall be without possession.

(3) No loan for current agricultural operations shall be granted except to a member who has been previously granted a loan for any of the purposes specified in sub-section (1) (*a*), (*b*) and (*c*) and whose mortgage is subsisting.

Power of the Registrar to enforce the attendance of any person, compel the production of documents, etc.

81. (1) Subject to such restrictions, limitations and conditions as may be prescribed, the Registrar and persons subordinate to the Registrar who are authorised by him in this behalf by general or special order in writing and such other persons, being officers of Land Mortgage Banks registered under this Act as the Government may authorise in this behalf, shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1911, when trying a suit in respect of the following matters, namely,—

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of documents; and

(*c*) issuing commissions for the examination of witnesses.

(2) Any of the officers or persons authorised by or under sub-section (1) may require any person present before him to furnish any information or to produce any document then and there in his possession or power.

(3) Any officer or person before whom any document is produced under sub-section (1) or sub-section (2) shall have power to take or to authorise the taking of such copies of the document or of any entries therein as such officer or person may consider necessary. Copies so taken

shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document or the entries therein as the case may be.

When a loan may be recalled

82. A Co-operative Land Mortgage Bank may recall a loan—

(i) if after the loan has been granted, the information furnished by the borrower regarding the security, the encumbrances thereon or his interest therein is found to be incorrect in material particulars, or

(ii) if the loan is utilised for a purpose different from that for which it was granted, or

(iii) if the mortgaged property has, in the opinion of the Bank, deteriorated in its value as security for the loan and the borrower fails to furnish additional security to the satisfaction of the Bank, or

(iv) if on the death of the borrower, or in the case of joint borrowers on the death of any one of them, his legal representative does not consent to continue as a member of the Bank, or

(v) if for any other reason the borrower, or in the case of joint borrowers, any one of them, ceases to be a member of the Bank, or

(vi) if the borrower commits default in the payment of any instalment on the due date, or

(vii) if a borrower alienates, or creates any subsequent encumbrance on the mortgaged land.

Remedies if a loan recalled is not repaid.

83. (1) When a loan is recalled under the provisions of section 82 and is not repaid within three months from the date of recall, the Bank may apply to the Registrar for the recovery of the loan.

(2) If, after such inquiry as may be prescribed by the Government, the Registrar finds that the amount or any part of the amount claimed in such application is due to the Bank, he may, having regard to all the circumstances of the case—

(a) extend the time for the payment of such amounts for a period not exceeding six months and, if the amount is not paid within such period, order the sale of the land or other security or a sufficient part thereof, or

(*b*) order that the Bank be put in possession of the said land for a reasonable period and upon good cause shown extend such period, or

(*c*) forthwith order the sale of the said land or other security or a sufficient part thereof, as he thinks fit.

(3) The Registrar may also, upon good cause shown and after notice to the borrower, order the sale of the land at any time after the Bank has been put in possession of it.

(4) Every order made under this section for possession or sale of the land shall be sent to the Deputy Commissioner of the District in which the land is situate for execution.

Bank's right not affected by subsequent transfer of mortgaged land.

84. Notwithstanding anything contained in the Transfer of Property Act, 1918, or any other law for the time being in force, no encumbrance created on the land, and no lease thereof and no transfer of the same by sale, gift or otherwise by the mortgagor and no charge thereon created by the decree of a civil court or otherwise arising by operation of law, after such land has been mortgaged to the Bank, shall affect the right of the Bank to any of the remedies provided in section 83:

Provided that if any such encumbrancer, alienee or charge-holder has had his interest in the land registered in the office of the Bank in accordance with the rules framed by the Government in this behalf, the Bank shall, when the loan is recalled under the provisions of section 82 send by registered post to every such person a written notice of such recall.

Bank's duties on taking possession of mortgaged land.

85. When a Co-operative Land Mortgage Bank is put in possession of the mortgaged land in execution of an order made under section 83, the Bank shall be subject to all the duties imposed under section 76 of the Transfer of Property Act, 1918, on a mortgagee taking possession of the mortgaged property during the continuance of the mortgage and it shall, unless the land has been sold in execution of an order made under sub-section (3) of section 83, restore possession thereof to the mortgagor or the person claiming through him, as the case may be, on the expiry of the period fixed by the Registrar, or earlier on full discharge of the amount due.

Execution of order of sale made by the Registrar.

86. (1) An order for sale made under section 83 shall be executed, so far as may be, in accordance with the procedure laid down in, and subject to the provisions of sections 171 to 173, 175, 179 to 183, 183-A, 184 to 187, 187-A, and 188 of the Mysore Land Revenue Code, 1888, for the sale of immovable property, as if the arrears due to the Bank were arrears of land revenue.

(2) When the sale is confirmed by the Deputy Commissioner in due course, no other person having any interest in the land sold, shall, notwithstanding anything contained in the Transfer of Property Act, 1918, or any other law for the time being in force, have any claim against the purchaser or in respect of such land, if such interest has been acquired subsequent to the mortgage of the land to the Bank.

(3) When the sale is confirmed, the proceeds of the sale shall be applied first to the defraying of the expenses of the sale proceedings and next to the payment to the Bank of the amount due to it together with interest and costs, and the surplus, if any, shall be paid to the mortgagor or other person claiming through him, as the case may be.

(4) When there is any dispute as to the rights to receive the surplus, such surplus shall not be paid to any person except under the order of a civil court.

Registrar when to take an account.

87. (1) When any dispute arises regarding the amount paid to the Bank in reduction or discharge of a loan or when it is alleged that the Bank has failed to perform the duties imposed upon it by section 85, the Registrar shall, upon application made to him in that behalf by the borrower or other person claiming through him, take an account, or order that an account be taken, of what is due to the Bank.

(2) The loss, if any, that is proved to have been occasioned by the failure of the aforesaid duties shall be debited to such account.

(3) If, upon taking the account as aforesaid, the Registrar finds that nothing is due to the Bank or that the Bank has been overpaid, he shall order the Bank—

(*a*) to deliver up to the applicant all documents in its custody or power relating to the property mortgaged to it as security for the loan,

(*b*) to pay to the applicant the amount which may be found due to him, and

(*c*) restore possession of the mortgaged property to the applicant,

as the circumstances of the case may require.

(4) The amount ordered to be paid under clause (*b*) of sub-section (3) shall be recoverable as an arrear of land revenue.

Execution orders for possession and restoration of possession.

88. Orders for possession and restoration of possession, made under section 83 and section 87, shall be executed by the Deputy Commissioner, so far as may be, in accordance with the procedure laid down in section 209 of the Mysore Land Revenue Code, 1888.

Distraint and sale of produce when to be made.

89. (1) (i) If any instalment payable under a mortgage executed in favour of a Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the committee of the Bank may, in addition to any other remedy available to the Bank, apply to the Registrar or to any person appointed by the Government under section 4 to assist the Registrar, for the recovery of such instalment or part by distraint and sale of the produce of the mortgaged land including the standing crops thereon. On receipt of such application, the Registrar or such person may, notwithstanding anything contained in the Transfer of Property Act, 1918, take such action as is necessary to distrain and sell such produce:

Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(ii) The distress shall not be excessive; the value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the cost of the sale.

Distraint how to be effected.

(2) (i) Before or at the time when a distraint is made under sub-section (1), the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

(ii) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his usual place of abode or to his authorised agent, or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

(3) (i) If, within fifteen days from the date of service of the demand referred to in sub-section (2), the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and the costs of the sale.

(ii) From the proceeds of such sale, a deduction shall be made of the costs of the sale not exceeding six and one-fourth per centum of the demand.

(iii) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(iv) The remainder, if any, shall be applied to the discharge of the amount for which the distraint was made.

(v) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

Power of Government to make rules.

(4) The Government may make rules—

(i) for the manner of effecting distraint;

(ii) for the custody, preservation and sale of the distrained property;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property; and for the postponement of the sale pending such investigation;

(iv) for the immediate sale of perishable articles; and

(v) generally for the purpose of carrying out the provisions of this section.

Power of Bank in case the mortgaged property is wholly or partially destroyed, or the security is rendered insufficient.

90. Where any property mortgaged to a Bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the Bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the committee shall be entitled to take action against the mortgagor, under the provisions of section 89 for the recovery of such portion of the loan.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the Bank.

Power of Board or of Registrar to direct distraint and sale of produce and the sale of mortgaged property, etc.

91. (1) The Board or the Registrar may direct the committee of Bank to take action against a defaulter under section 83 or section 90 and if the committee neglects or fails to do so, the Board or the Registrar may take such action.

(2) (*a*) Where such action is taken by the Board, the provisions of this Act and of any rules made thereunder or the bye-laws of such Bank shall apply in respect thereto as if all references to the Bank and to its committee in the said provisions were references to the Central Bank and the Board respectively.

(*b*) Where such action is taken by the Registrar, the provisions of this Act and of any rules made thereunder or the bye-laws of such Bank shall apply in respect thereto as if all references to the Bank or to its committee in the said provisions were references to the Registrar.

Mortgagor's power to lease.

92. Notwithstanding anything contained in the Transfer of Property Act, 1918, the duration of any lease executed by a mortgagor of property mortgaged to a Bank after the execution of the mortgage shall in no case exceed five years.

Mortgage not to be questioned on insolvency of mortgagor.

93. Notwithstanding anything contained in the Mysore Insolvency Act, 1925, a mortgage executed in favour of a Bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Bank a preference over the other creditors of the mortgagor.

Priority of mortgage over claims arising under the Land Improvement Loans Act.

94. A mortgage executed in favour of a Bank after the commencement of this Act shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 1890, granted after the execution of the mortgage.

Right of Bank to pay prior debts of mortgagor.

95. Where a mortgage is executed in favour of a Bank for payment of prior debts of the mortgagor, the Bank may, notwithstanding the provisions of sections 83 and

84 of the Transfer of Property Act, 1918, by notice in writing, require any person to whom any such debt is due to receive payment of such debt or part thereof from the Bank within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice:

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the Bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

Registration of documents executed on behalf of a Bank or of the Central Bank.

96. (1) Notwithstanding anything contained in the Mysore Registration Act, 1903, it shall not be necessary for any director, secretary or other officer of a Bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

(2) Where any instrument is so executed, the Registering Officer to whom such instrument is presented for registration may, if he thinks fit, refer to such director, secretary or officer for information respecting the same, and on being satisfied of the execution thereon, shall register the instrument.

Power of a Primary Bank to receive moneys and grant valid discharge notwithstanding assignment of mortgage deeds to the Central Bank

97. Notwithstanding the transfer of a mortgage by a Primary Bank to the Central Bank,—

(*a*) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the mortgagor, be payable to the Primary Bank, and such payment shall be as valid as if the mortgage had not been so transferred; and

(*b*) the Primary Bank shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the Primary Bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

Special provision for mortgages executed by managers of joint Hindu families.

98. (1) Where a mortgage executed in favour of a Bank either before or after the passing of this Act is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether major or minor, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section the improvement of agricultural land or of the methods of cultivation shall not be regarded as a purpose not binding on a member of the joint Hindu family.

Service of notices under these sections.

99. Whenever under the special provisions relating to Co-operative Land Mortgage Banks, notice is required to be given to any person in writing, it shall be sufficient to send such notice by registered post.

The Transfer of Property Act to apply to such notices.

100. The provisions of sections 102 and 103 of the Transfer of Property Act, 1918, and of any rules made by the High Court under section 104 of that Act for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under the special provisions relating to Co-operative Land Mortgage Banks.

Officers of a Bank and of the Central Bank and Sale Officers not to bid at sales.

101. At any sale of movable property held under the provisions of section 89 in order to recover any money due to a Bank, no Director, Secretary or other officer of such Bank or of the Central Bank (except on behalf of the Bank of which he is Director, Secretary or Officer), and no sale officer or other person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

Delegation of certain powers by Board.

102. The Board may, if it thinks fit, delegate all or any of its powers under section 91 to an executive committee constituted by it and consisting of two or more of its members.

Rules.

103. The Government may make rules to carry out the foregoing special provisions relating to Co-operative Land Mortgage Bank and in particular such rules may provide for—

(*a*) the powers to be exercised and the duties to be performed by the trustee and the form of investment or deposit

of the funds credited to his account in trust for the redemption of debentures;

(*b*) the mutual rights and obligations of Primary Land Mortgage Banks and Central Land Mortgage Banks;

(*c*) the manner of selecting representatives of debenture-holders for appointment to the committee.

Application of other provisions of Act.

104. The provisions of Part I of this Act shall apply to Co-operative Land Mortgage Banks in so far as they are not inconsistent with the special provisions of this Part.